



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 28 2004

The Honorable Mitch McConnell
United States Senate
Washington, DC 20510-1702

Dear Senator McConnell:

Thank you for your October 4, 2004, letter to the Environmental Protection Agency (EPA) Administrator Mike Leavitt, forwarding a letter you received from Bill Scott, County Judge/Executive for Boyd County, Kentucky. In his September 28, 2004, letter to you, Judge Scott requested your assistance in ensuring that information submitted by the Kentucky Division for Air Quality will be thoroughly reviewed before EPA makes a final PM_{2.5} attainment decision for Boyd County, Kentucky. Administrator Leavitt forwarded the letters to EPA Region 4 for response.

In determining an area's designation, EPA relies on Clean Air Act (CAA) Section 107(d)(1)(A)(i), which defines a nonattainment area as an area which is violating an ambient air quality standard or is contributing to a nearby area that is violating the standard. If an area meets this definition, EPA is required to designate the area as nonattainment. As a first step in the designation process, States and Tribes were asked to submit their recommendations based on an April 1, 2003, guidance EPA issued to help them identify areas that meet or do not meet national air quality standards for PM_{2.5}. The guidance outlined nine factors EPA planned to use to evaluate state attainment requests that deviate from the Office of Management and Budget (OMB) metropolitan area definitions. These factors include air quality, source locations and emissions, meteorology, terrain, population, commuting, and growth in the area.

According to the guidance, if a monitor recorded a violation, the State or Tribe then had to determine if there are any nearby areas that are contributing to the violation and include them in the designated nonattainment area. This is particularly important because PM_{2.5} is a regional pollutant that can be transported by prevailing wind to nearby areas. States had until February 2004, to recommend to EPA, based on the April 1, 2003, guidance, which areas should be designated as attainment or nonattainment. In its February 20, 2004, letter to EPA, the Commonwealth of Kentucky recommended that the designation for Boyd County be deferred.

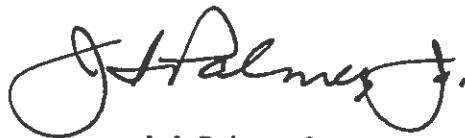
EPA carefully considered the State's recommendations. It reviewed all available technical data related to the nine factors in the guidance, including the most recent three years of emission monitoring data. In its June 29, 2004, response, EPA notified the Commonwealth of Kentucky of the modifications EPA intended to make to the recommendations. The letter, which provided a detailed explanation of EPA's reasoning, is enclosed for your consideration.

All states had an opportunity to discuss EPA's modifications to their recommendations with the Agency during the 120 days following receipt of the modification letters. On August 24, 2004, Ms. LaJuana S. Wilcher, Secretary of the Environmental Public Protection Cabinet provided additional information in response to EPA's June 29, 2004, modification letter. EPA is currently evaluating the supplemental information and looks forward to continued dialogue with Kentucky as it works to finalize the designations for the PM_{2.5} standard. EPA intends to promulgate final designations by November 17, 2004.

Additional information regarding PM_{2.5} designations, along with links to the technical support documentation, is available on the web at the following web site:
<http://www.epa.gov/pmdesignations/>.

If you have questions or need additional information from EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "J. I. Palmer, Jr.", with a stylized flourish at the end.

J. I. Palmer, Jr.
Regional Administrator

Enclosure

OCT. 4. 2004 12:33PM

SEN MITCH MCCONNELL

NO. 0007

MITCH MCCONNELL
KENTUCKY

MAJORITY WHIP

COMMITTEES
AGRICULTURE

APPROPRIATIONS

SUBCOMMITTEE ON FOREIGN OPERATIONS
CHAIRMAN

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361-A RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1702
(202) 224-2841

United States Senate

October 4, 2004

The Honorable Michael O. Leavitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Leavitt:

I contact you regarding the enclosed letter that I received from Bill Scott, the County Judge/Executive for Boyd County, Kentucky. Judge Scott expresses concern that the Environmental Protection Agency (EPA) may soon make a final designation of Boyd County as a nonattainment area according to the National Ambient Air Quality Standards for PM-2.5. Judge/Executive Scott seeks assurances that the information submitted by the Kentucky Division for Air Quality requesting an attainment designation for Boyd County be thoroughly reviewed before a final decision is made.

It is my understanding that the EPA and the Kentucky Division for Air Quality have scheduled a conference on October 6 in Atlanta. With the date of the conference quickly approaching, I wanted to make you aware of the concerns of Judge/Executive Scott.

Thank you for your assistance on this important issue, and I look forward to hearing from you in the near future.

Sincerely,


MITCH MCCONNELL
UNITED STATES SENATOR

Enclosure

Q.C.H.
Charles
John
Craig
Jim W.
Peter
Catherine

JUL 4 2004 12:33PM - JLN MICH INCORPORATED

**BOYD COUNTY JUDGE EXECUTIVE
BILL F. SCOTT****P. O. BOX 423
CATLETTSBURG, KENTUCKY 41129****TTY/TTD (800) 247-2510****(606) 739-4134
FAX (606) 739-5446****September 28, 2004****Fax (202) 224-2499****Senator Mitch McConnell
361-A Russell Senate Office Building
Washington, DC 20510****Dear Senator McConnell:**

I am writing to you because we greatly need your assistance concerning a conference between U.S. EPA and the Kentucky Division for Air Quality which will be extremely important to our future. Because our small community has lost approximately 2,000 jobs in the past two years, economic development has become one of our County's most important priorities. Therefore, we were surprised and concerned when, on June 29, 2004, U.S. EPA rejected Kentucky's recommendations and preliminarily designated our County as nonattainment for PM-2.5. We were, quite frankly, astonished because the monitor located in our County shows attainment for the standard and we had relied on these monitoring results.

We have investigated the basis for the preliminary designation. We have reviewed U.S. EPA's nine factor analysis which was posted on the web at the time of the preliminary designation. We have also reviewed Kentucky's August 27 response which is also on the web. We understand that U.S. EPA and Kentucky will meet in Atlanta on October 6. At that meeting or soon after the meeting, U.S. EPA will make a final decision about our County. Though we understand the important job that U.S. EPA is performing for our citizens, we also suspect that the staff of the Office of Air Quality Planning and Standards Organization may have limited time and resources to review submittals for each of the 243 counties which received the preliminary designations of nonattainment. Therefore, we request your assistance in determining how we can be assured that the final decision is based on a thorough review of all the important information submitted by Kentucky.

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I am enclosing Kentucky's response to U.S. EPA which is posted on the web. It is our understanding that before Boyd County can be designated nonattainment, the law requires U.S. EPA to demonstrate that our County is either exceeding the standard or is significantly contributing to nearby nonattainment. Since the monitor in Boyd County shows attainment, U.S. EPA has reached the preliminary conclusion that our County significantly contributes to nonattainment in other areas. This conclusion apparently is based upon U.S. EPA's reliance on a weighted emission averaging methodology. However, it appears that U.S. EPA failed to take into consideration all the adjacent county emissions in its calculations. If it will do so, U.S. EPA's own weighted emission scoring methodology will show that our County does not contribute significantly to PM-2.5 levels in the region.

Therefore, it seems to us that U.S. EPA will make a terrible mistake if it designates Boyd County as nonattainment for PM-2.5. This mistake will have a dramatic impact on our future. Not only will designating our County as nonattainment be a devastating blow to our efforts to attract new industry, it will be even more difficult to encourage our existing industry to modernize and preserve existing jobs. It will be difficult, if not impossible, for local industry to plan expansions when it will not be known until February 2008 what the regulatory requirements will be to achieve compliance with the new standards by February 2010. Additionally, any company considering locating or expanding in Boyd County will be subjected to a lengthy and expensive permitting process including the burdensome requirement of installing equipment that achieves the lowest achievable emission rate (LAER), rather than the conventional equipment allowed in other areas.

I hope that you understand why we are so concerned with the outcome of the October 6 conference between U.S. EPA and Kentucky. The conference is not only important to the citizens of Boyd County but also to the many West Virginians and Ohioans who work in our County producing products which are important to our country's economy and its defense. As you know, we are strong supporters of President Bush. At our local rally on September 10, the President assured us his Administration is doing all it can to regain lost jobs. We know that the President must have a great deal of confidence in Administrator Leavitt. Therefore, we will greatly appreciate it if you will determine how we may make our concerns known to Administrator Leavitt and receive assurances that the information recently submitted by Kentucky will be thoroughly and fairly reviewed before Administrator Leavitt makes his final decision.

Sincerely



Bill F. Scott

Boyd County Judge/Executive

cc: Secretary Lajuana S. Wilcher
Environmental and Public Protection Cabinet
Capital Plaza Tower, 5th Floor
Frankfort, KY 40601

Commissioner Lloyd Cress
Department for Environmental Protection
Environmental and Public Protection Cabinet
14 Reilly Road
Frankfort, KY 40601

Director John Lyons
Division for Air Quality
Department for Environmental Protection
Environmental and Public Protection Cabinet
803 Schenkel Lane
Frankfort, KY 40601-1403